

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

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SAVINGS BANKS EMPLOYEES)	CIVIL ACTION NO. 04-11545-EFH
RETIREMENT ASSOCIATION,)	
)	
Plaintiff,)	
)	
v.)	
EAST BOSTON SAVINGS BANK;)	
CAPE COD FIVE CENTS SAVINGS)	
BANK; SOUTH SHORE SAVINGS)	
BANK; and WORONOCO SAVINGS)	
BANK,)	
)	
Defendants.)	
)	

CORRECTED AMENDED COMPLAINT

For its complaint, plaintiff Savings Banks Employees Retirement Association (“SBERA”) alleges:

1. Plaintiff Savings Banks Employees Retirement Association is an entity created by the Massachusetts General Court for the purpose of administering, on behalf of Massachusetts savings banks, employee retirement plans which are qualified under Section 401 of the Federal Internal Revenue Code.
2. Defendants East Boston Savings Bank, Cape Cod Five Cents Savings Bank, South Shore Savings Bank and Woronoco Savings Bank (“Defendant Banks”) are all Massachusetts savings banks which had been long-time participants of SBERA. Each was a sponsor of one or more retirement plans which SBERA administered.

3. Horizon Bank & Trust was also a Massachusetts savings bank that sponsored a retirement plan administered by SBERA. Horizon Bank & Trust has been acquired by South Shore Savings Bank.

4. On or about September 24, 1998, SBERA's Board of Trustees passed a resolution providing for an assessment to be imposed on participating banks upon withdrawal. These assessments were intended to be a reasonable estimate of the average costs that a withdrawal imposed upon SBERA. The Board of Trustees passed the resolution to reduce administrative costs and risks of non-payment by withdrawing banks.

5. All of the Defendant Banks were aware of the resolution. Other banks have withdrawn from SBERA since the resolution was adopted, and have paid the required assessment. The Defendant Banks have therefore enjoyed the benefits of the resolution.

6. The Defendant Banks have withdrawn at various times in late 2003 and early 2004.

7. Horizon Bank & Trust was also aware of the September 24, 1998 resolution passed by SBERA's Board of Trustees and also enjoyed the benefits of the resolution. Horizon Bank & Trust, by its successor-in-interest South Shore Savings Bank, withdrew its plan from SBERA on September 30, 2004 and has refused to pay the withdrawal fee assessed it by SBERA.

8. SBERA has repeatedly demanded that each of the Defendant Banks pay withdrawal fees as set forth below:

- a. East Boston Savings Bank: \$37,322.00
- b. Cape Cod Five Cents Savings Bank: \$52,662.08
- c. South Shore Savings Bank: \$35,840.56

- d. South Shore Savings Bank as successor-in-interest to Horizon Bank & Trust: \$8,508.08
 - e. Woronoco Savings Bank: \$33,180.64
9. Each of the Defendant Banks has failed and refused to pay the fees.

COUNT I

10. The allegations of paragraphs 1 through 9 are set out herein.
11. Each of the Defendant Banks owes SBERA the amount set forth next to its name in paragraph 8 hereof.

COUNT II

12. The allegations of paragraphs 1 through 11 hereof are incorporated herein.
13. On information and belief, the Defendant Banks intended to withdraw, did not intend to pay the assessment due upon withdrawal, and nonetheless accepted the benefits of the assessment resolution for many years.
14. The Defendant Banks have committed unfair business practices in violation of Chapter 93A of the Massachusetts General Laws.

WHEREFORE, plaintiff Savings Banks Employees Retirement Association demands judgment as follows:

1. Damages in the amounts set forth in paragraph 6 hereof.
2. Damages pursuant to Chapter 93A in an amount three times the amounts set forth in paragraph 8 hereof.
3. Its attorney's fees.
4. Interest and costs.
5. Such other relief as This Honorable Court deems appropriate.

SAVINGS BANKS EMPLOYEES
RETIREMENT ASSOCIATION,

By its attorneys,



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